

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
EVANSVILLE DIVISION**

UNITED STATES OF AMERICA,)	
Plaintiff,)	
)	3:06-cr-000038-RLY-CMM
vs.)	
)	
BENJAMIN PARISH,)	-26
Defendant)	

REPORT AND RECOMMENDATION

On February 20, 2019, the Court held an initial hearing on the Petition for Warrant or Summons for Offender Under Supervision filed on January 22, 2019. Defendant Benjamin Parish (“Defendant”) appeared in person with FCD counsel, Joseph Cleary. The government appeared by Todd Shellenbarger, Assistant United States Attorneys, via telephone. U. S. Parole and Probation appeared by Officer Jennifer Considine.

The Court conducted the following procedures in accordance with Fed. R. Crim. P. 32.1(a)(1) and 18 U.S.C. §3583:

1. The Court advised Defendant of his rights and provided him with a copy of the petition. Defendant orally waived his right to a preliminary hearing.

2. After being placed under oath, Defendant admitted Violation No. 4.
[Docket No. 222.]

3. The allegation to which Defendant admitted, as fully set forth in the petition, are:

**Violation
Number**

Nature of Noncompliance

- 4 "The defendant shall not unlawfully possess a controlled substance. The defendant shall refrain from any unlawful use of a controlled substance."

As previously reported to the Court, on August 28, 2018, Benjamin Parish tested positive for amphetamines. He admitted to using methamphetamine on August 26, 2018.

4. The parties stipulated that:

- (a) The highest grade of violation is a Grade B violation.
- (b) Defendant's criminal history category is IV.
- (c) The range of imprisonment applicable upon revocation of supervised release, therefore, is 12 to 18 months imprisonment.

5. Parties jointly recommended that defendant be incarcerated for fourteen (14) months with no supervised release to follow. The Government will not pursue further penalties with regard to Violation Nos. 1, 2, and 3 in the Petition; nor will it pursue Violation No. 5 that was presented orally to the Court.

6. The Magistrate Judge, having considered the factors in 18 U.S.C. §3553(a), and as more fully set forth on the record, finds that:

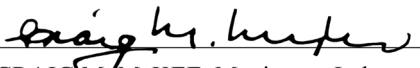
- (a) The Defendant violated the conditions in the petition;
- (b) That the agreement of the parties is an appropriate resolution of this matter and the agreement is commended to the favorable consideration of the District Judge;
- (c) That, consistent with the agreement, the Magistrate Judge recommends that the defendant's supervised release be revoked, and that he should be sentenced to the custody of the Attorney General or his designee for a period of

fourteen (14) months with no supervised release to follow. The Defendant is to be taken into custody immediately pending the District Judge's action on this Report and Recommendation.

The parties are hereby notified that the District Judge may reconsider any matter assigned to a Magistrate Judge.

The parties waive the objection period.

Dated: February 20, 2019


CRAIG M. McKEE, Magistrate Judge
United States District Court
Southern District of Indiana

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